IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.9654 of 2003

Between:

1. Bodda Somanna Dora, S/o. Ramaiah, aged 60 years, Agriculturist,

2. Sri Shaik Madina Bibi, W/o. Mohd. Subhan, aged 35 years,

3. Smt. Dantuluri Lakshmi Kumari, W/o. Satyanarayana, aged 35 years,

4. D.V.A.Raju, S/o. Venkata Krishna Raju, aged 36 years,

5. Bodda Satyanarayana, S/o. Venkataramana (Late), aged 40 years,

6. Ms. Varre Sitayamma, W/o. Late. Chittibabu, aged 65 years,

7. Y. Krishna Murthy Raju, S/o. Late Venkatanarayana Raju, 45 years,

8. Mrs.Yejarla Appalanarasayamma, W/o.Late Venkatanarayana Raju,75years,

9. M.S.Gopala Raju, S/o. Late. Satyanarayana Raju, aged 39 years,

10. Mrs. Kolukuluri Vijaya, W/o. Sanyasi Raju, aged 35 years,

11. Mrs. P. Uma Devi, W/o. Bangaru Raju, aged 40 years,

12. Mrs. Vatsayasi Lakshmi Devi, W/o. Krishnam Raju, aged 45 years,

13. P. Samba Murthy Raju, S/o.Kumandan Raju, aged 48 years,

14. K. Satyanarayana, S/o. Ramana, aged 36 years,

15. Grandhikota Satyanarayana, S/o. Late. Talupulu, aged 45 years,

16. P. Ramachandra Raju, S/o. Narasimha Raju, aged 40 years,

(All are residents of Peddagummuluru, S.Rayavaram Mandal, Visakhapatnam Districat).

..... PETITIONERS

AND

1. The District Collector, Visakhapatnam District.

2. The Mandal Revenue Officer, S.Rayavaram Mandal,

Visakhapatnam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly in the nature of Mandamus declaring the action of the respondents herein in high handedly trying to evict the writ petitioners from the lands in Survey No.93 and Survey No.509/4 situated at Peddagummuluru Village, S.Rayavaram Mandal, Visakhapatnam District in respect of the said lands provisional pattas were granted in the year 1992 and D-Form patas in the year 1987 as being illegal, unjust and arbitrary.

Counsel for the Petitioners: MR.E.V.BHAGIRATHA RAO

Counsel for the Respondent Nos.1 and 2: GP FOR ASSIGNMENT

The Court made the following:

ORDER:

The case of the petitioners, who are sixteen in number, is that the land, admeasuring Acs.4.00 each in Sy.Nos.93, 509/3 and 509/5 of Peddagummuluru village of S.Rayavaram Mandal, was provisionally assigned to the petitioners in November,

1992 and that since then, they have been in continuous possession of the said land. They also allege that they have raised cashew garden, but on 17.5.2003, a news item published in Eenadu Visakhapatnam District Edition stating that the lands allotted to them, will be assigned to landless poor persons by the second respondent, after evicting them. On 09.5.2003, the surveyors of the second respondent took measurements of the land and threatened the petitioners that they would be evicted. Therefore, they filed the present writ petition seeking a declaration that the action of the respondents in trying to evict them from the lands is illegal and arbitrary.

The respondents filed counter affidavit stating that the land admeasuring Acs.101.98 in Sy.No.93 was assigned to 52 beneficiaries, that on a complaint given by one K. Prakasa Rao about misutilisation of the Government land by the encroachers, the Government ordered an enquiry, that the Joint Collector conducted enquiry and it was found that the petitioners are not personally cultivating the land and that one Sudarshan Raju @ Pottibabu is in possession of the land cultivating commercial crops, like cashew nut. The Mandal Revenue Officer who filed the counter affidavit on behalf of the respondents further states that two special teems were constituted and a notice was published in news papers to the effect that provisional pattas granted to the beneficiaries, including the petitioners, would be cancelled after due process of law. A further statement is made that after cancelling the assignment made to the petitioners, the land will be assigned to the eligible landless poor persons.

Though interlocutory matters are listed, the matter was heard finally and is being disposed of by this order. A perusal of the counter affidavit would show that though the land was assigned to the petitioners during the year 1992-1993, the petitioners are not cultivating the land and one Sudarshan Raju is cultivating the land benami. This Court granted sufficient time to the learned Counsel for the petitioners to file a reply affidavit, but no such reply affidavit is forthcoming. Therefore, this Court has no reason to disbelieve the averments made by the Mandal Revenue Officer in the counter affidavit that the petitioners are not in possession of the land. However, as rightly submitted by the learned Assistant Government Pleader for Revenue (Assignment), the assignments made in favour of the petitioners have not yet been cancelled and the same has to be done only after following due process of law, like issuance of notice to the petitioners and conducting of enquiry regarding their eligibility, within a period of eight weeks from the date of receipt of a copy of this order. If the petitioners are still personally cultivating the land, there shall be *status quo* till such enquiry is conducted.

The writ petition, with the above observations, is disposed of. No costs.

V.V.S. RAO, J

November 08, 2004.

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To

1. The District Collector, Visakhapatnam District.

2. The Mandal Revenue Officer, S.Rayavaram Mandal,

Visakhapatnam District.

3. Two CCs to the Government Pleader for Assignment,

High Court Buildings, Hyderabad (O.U.T)

4. Two C.D. Copies.